

**MINUTES OF  
FAUQUIER COUNTY BOARD OF ZONING APPEALS  
JANUARY 5, 2006**

**AN ADJOURNED MEETING OF THE FAUQUIER COUNTY BOARD OF ZONING APPEALS WAS HELD ON JANUARY 5, 2006 AT 10:00 A.M. IN WARRENTON, VIRGINIA.**

Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mrs. Carolyn Bowen; Mr. Serf Guerra; Mr. Roger Martella, Jr.; and Mr. Maximilian Tufts. Also present was Mr. Fred Hodge, Senior Planner.

Mr. Hodge reviewed the site visit agenda. He stated that there would be five (5) site visits as follows:

1. John & Tammy Slaustas
2. Jacqueline L. Croson
3. Connie H. Oravec
4. Jason E. & Wendy H. Swart
5. Battlefield Baptist Church

With no further business, the meeting was adjourned at approximately 11:45 a.m., to reconvene at 2:00 p.m. at 10 Hotel Street, Warren Green Meeting Room, Warrenton, Virginia.

**MEETING:**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, January 5, 2006, beginning at 2:00 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Chairperson; Mrs. Margaret Mailler, Vice-Chairperson; Mr. James W. Van Luven, Secretary; Mrs. Carolyn Bowen; Mr. Serf Guerra; Mr. Roger R. Martella, Jr.; and Mr. Maximilian Tufts. Also present were Mrs. Tracy Gallehr, Deputy County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Todd Benson, Assistant Zoning Administrator; Mr. Fred Hodge, Senior Planner and Mrs. Debbie Dotson, Planning Associate.

**ELECTION OF OFFICERS:**

Ms. Gallehr asked for the nomination of BZA officers for 2006.

On motion made by Mrs. Mailler and seconded by Mr. Martella, it was moved to nominate Mr. Meadows as Chairperson.

The motion carried unanimously.

On motion made by Mrs. Bowen and seconded by Mr. Tufts it was moved to nominate Mrs. Mailler as Vice-Chairperson.

The motion carried unanimously.

On motion made by Mr. Meadows and seconded by Mr. Tufts it was moved to nominate Mr. Van Luven as Secretary.

The motion carried unanimously.

### **MINUTES:**

On motion made by Mr. Van Luven and seconded by Mr. Tufts, it was moved to approve the December 1, 2005 minutes.

The motion carried unanimously.

### **LETTERS OF NOTIFICATION AND PUBLIC NOTICE:**

Mrs. Dotson read the Public Hearing protocol. Mr. Hodge stated, that to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners.

### **SPECIAL PERMIT #SPPT05-CR-032, DENNIS G. & MARY L. HITE (OWNERS)**

Owners are requesting special permit approval to operate a small contracting business as a home occupation, PIN #7923-39-1149-000, located at 4115 Dumfries Road, Cedar Run District, Catlett, Virginia. *Note: Public Hearing was closed on October 6, 2005.*

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mr. Hite, applicant, stated that due to a misunderstanding on his part, he has not submitted the necessary paperwork to the Zoning Office revising his application. Mr. Hite requested that action on his application be postponed for thirty (30) days so that he can submit the required documents.

Ms. Johnson expressed concern about the length of time Mr. Hite's property has been in violation. Ms. Johnson stated that staff has met with him on-site and clearly outlined the necessary steps he needs to take so that his property will be in compliance with Zoning regulations.

On motion made by Mrs. Bowen and seconded by Mrs. Mailler, it was moved to postpone action on this item until the February 2006 meeting.

The motion carried unanimously.

**APPEAL #ZNAP06-MA-001, THE SALAHI FAMILY LIMITED PARTNERSHIP  
(OWNER/APPLICANT)**

Applicants are appealing a decision of the Zoning Administrator regarding a violation of Special Exception conditions approved by the Fauquier County Board of Supervisors. The properties are identified as PIN #5998-87-0439-000 and #5998-88-4344-000, located at 14141 Hume Road, Marshall District, Hume, Virginia. *Note: This is a public meeting not a public hearing.*

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes.

Mrs. Bowen recused herself from any vote and/or discussion on this application based on her previous position as Zoning Administrator during which time she made a number of decisions related to the property and its use.

Mr. Todd Benson, Assistant Zoning Administrator, summarized the issue and the basis for his determination of violations at the June 25, 2005 event which occurred at Oasis Winery. Mr. Benson stated that the owners have suggested that this event was a "private party" and, therefore, not covered by the terms of the approved Special Exception. However, the County's position is that the Special Exception was issued to the Salahi Family Limited Partnership and covers everything that is held on the property.

Philip Strother, Esquire, attorney representing the applicants, stated that he feels the defining issue is whether the party that took place was a "corporate event" or a "private party." Mr. Strother further stated that the problem arises because the Zoning Ordinance does not define either a "Class C corporate event" or "private party" and, therefore, is an issue for the Board of Supervisors to determine. Mr. Strother acknowledged that there were fireworks and music at the event which was held in June 2005, but stated that this was a "private party" and not a corporate sponsored event.

Mr. Guerra expressed concern that a reputable business such as Oasis Winery would hold an event and then make a distinction about the type of function it was.

Pursuant to *Code of Virginia* Section 2.2-3711(A)(7), it was moved by Mr. Van Luven and seconded by Mr. Tufts to go into a closed meeting for the purpose of consultation with legal counsel to specific legal matters requiring the provision of legal advice by counsel relating to the Oasis Winery.

The motion carried unanimously.

Upon reconvening from the closed meeting, Mr. Van Luven read the following Certification of Closed Meeting:

The Fauquier County Board of Zoning Appeals, having adjourned into a closed meeting this day for the purposes stated in the resolution authorizing such meeting, does hereby certify that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and
2. Only such public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed or considered in the closed meeting.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Mr. Van Luven, seconded by Mr. Tufts.

AYES: Mr. Guerra, Mr. Tufts, Mr. Van Luven, Mr. Meadows, Mrs. Mailler, Mr. Martella

NAYS: None

ABSTENTION: Mrs. Bowen

ABSENT: None

On motion made by Mr. Van Luven and seconded by Mrs. Mailler, after due notice and hearing as required by the Fauquier County Code and *Code of Virginia* it was moved that the June 25, 2005 event at Oasis Winery was covered by the terms of the Special Exception; and further moved to affirm the decision of the Fauquier County Assistant Zoning Administrator in Appeal #ZNAP06-MA-001 finding that the Salahi Limited Family Partnership, LLC violated the terms of the Special Exception on June 25, 2005.

The motion carried 6 - 0, with Mrs. Bowen abstaining.

**SPECIAL PERMIT #SPPT06-LE-011, JOHN AND TAMMY SLAUSTAS (OWNERS)**

Owners are requesting special permit approval to keep livestock on a lot of 1.1 acres located in the R-2 Zoning District, PIN #6887-57-5554-000, located at 12413 Lucky Hill Road, Lee District, Remington, Virginia. *Note: Public Hearing was closed on December 1, 2005.*

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day as well as on November 3, 2005.

Mr. Meadows stated that the public hearing was closed on December 1, 2005.

Mrs. Bowen expressed concern about the lack of vegetative cover as well as the size of the area where the animals are housed.

Mrs. Slaustas stated that she has consulted with an agricultural expert and will continue working with him to resolve the issue concerning the vegetative cover as well as which shrubbery should be planted.

On motion made by Mrs. Mailler and seconded by Mr. Van Luven, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The amount of livestock permitted on the project shall be reduced to not exceed 0.2754247 animal units.
2. To meet the requirements of the Ordinance, a grass ground cover shall be planted within the area used to house the livestock.
3. All pens and structures used to house the livestock shall be located a minimum of twenty-five (25) feet from any property line to meet the requirements of the Ordinance.
4. The applicants will have until June 1, 2006 to come into compliance with the resetting of the pen and fences, and the planting of the ground cover.

5. There shall be shrubbery of an evergreen nature planted at least across the back of the property in order to block sound and perhaps the view of the neighbors.
6. A rotation and conservation plan shall be submitted for approval by the Zoning Administrator and in place by June 1, 2006.
7. This special permit shall be issued for a period of two (2) years.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT06-MA-014, JACQUELINE L. CROSON (OWNER)/KEVIN P. GREELEY (APPLICANT)**

Applicant is requesting special permit approval to operate a gunsmithing business as a home occupation, PIN #6936-19-1772-000, located at 11465 Crest Hill Road, Marshall District, Marshall, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. Greeley, applicant, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Tufts and seconded by Mr. Van Luven, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.

6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The business shall be in conformance with the information provided in the special permit application.
2. No fully automatic weapons associated with the business are allowed on-site.
3. No more than ten (10) guns shall be kept in inventory on-site other than those owned by the residents.
4. There shall be no test firing on the property.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT06-SC-015, TRUSTEES OF BATTLEFIELD BAPTIST CHURCH (OWNERS/APPLICANTS)**

Applicants are requesting special permit approval for an existing place of worship, PIN #7916-35-9892-000, located at 4361 Lee Highway, Scott District, Warrenton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. Karl Skinner, Pastor, expressed agreement with the staff report.

Mrs. Mailler expressed concern about the increased exterior lighting at the site, resulting in the loss of the night sky for neighbors of the property.

Pastor Skinner stated that if additional lighting was installed, it was for security purposes.

Mrs. Bowen stated that she would like to see a lighting plan submitted for the church. Mrs. Bowen suggested that motion detectors could possibly be installed to alleviate the concerns of neighbors while still maintaining security.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Van Luven and seconded by Mr. Guerra, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The site shall be in general conformance with the drawings, floor plans and information submitted with this special permit application.
2. A minimum of two-hundred (200) parking spaces shall be provided for the total site.
3. All existing and proposed lighting shall come into compliance with Fauquier County's current lighting regulations.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT06-CT-016, CORINNE H. ORAVEC & GORDON H. HENSLEY (OWNERS)/CORINNE H. ORAVEC (APPLICANT)**

Applicant is requesting special permit approval to operate a professional office with three (3) or less employees for therapeutic massage, PIN #6986-13-9677-000, located at 7150 East Bethel Drive, Center District, Warrenton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.



Ms. Corinne Oravec, applicant, expressed agreement with the staff report. Ms. Oravec stated that a neighbor has requested that she remind her clients to drive slowly and obey traffic signs in the neighborhood, which she has agreed to.

Ms. Bibi Ann Lynott, a neighbor, spoke in favor of granting the special permit.

Ms. Anne Hall, a neighbor, spoke in favor of granting the special permit. Ms. Hall stated that she is delighted that there will be a massage therapist in her neighborhood.

Ms. Kathryn Gillman, a neighbor, spoke in favor of granting the special permit.

Mr. Meadows stated that correspondence, a copy of which is attached to and made a part of these minutes, was received earlier in the day from George and Arleen Hof, neighbors, in favor of granting the special permit. Mr. & Mrs. Hof stated that they have no objection to a professional office with Ms. Oravec as the sole employee. They did, however, express concerns about the safety of pedestrians, children, and pets as well as the fact that not all the intersections within the subdivision have stop signs.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mr. Van Luven and seconded by Mr. Tufts, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The applicant will be the only employee of the business.
2. Routine appointments shall be limited to 10:00 a.m. until 7:00 p.m. on Monday, Wednesday, and Friday and 8:00 a.m. until 2:00 p.m. on Saturday. The maximum number of clients shall be five (5) on Monday, Wednesday and Friday and a maximum of three (3) clients on Saturday.
3. No parking will be permitted on the subdivision street.
4. Only one (1) client is allowed on the site at a time.
5. There shall be a minimum of thirty (30) minutes between appointments.

**SPECIAL PERMIT #SPPT06-MA-017, JASON E. & WENDY H. SWART  
(OWNERS/APPLICANTS)**

Applicants are requesting special permit approval for an increase in the maximum building height from thirty-five (35) feet to thirty-seven (37) feet, seven (7) inches for a residence on the property, PIN #6966-74-0787-000, located on Timothy Lane, Marshall District, Warrenton, Virginia.

Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of these minutes, and stated that a site visit was made earlier in the day.

Mr. Meadows opened the public hearing.

Mr. Swart, applicant, expressed agreement with the staff report.

In that there were no further speakers, Mr. Meadows closed the public hearing.

On motion made by Mrs. Mailler and seconded by Mr. Tufts, it was moved to grant the special permit, after due notice and hearing, as required by *Code of Virginia* §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the following Board findings:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking loading and other facilities are provided to serve the proposed use.

5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the general standards for special permits.

The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:

1. The structure may be constructed to a maximum height of 37 feet, seven inches (37' 7") as generally shown on the drawings submitted with the special permit application.

The motion carried unanimously.

#### **OTHER BUSINESS:**

Mrs. Bowen asked about the status of the Prentiss lawsuit. Ms. Gallehr responded that Bob Mitchell, Esquire, has been retained by the County, on behalf of the BZA.

#### **ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:56 p.m.

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John R. Meadows, Chairperson

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James W. Van Luven, Secretary

*Copies of all files and materials presented to the BZA are attached to and become a part of these minutes. A recording of the meeting is on file for one year.*